IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4229 of 2007()

CRMP.4124/2007 of CHIEF JUDICIAL MAGISTRATE COURT, PATHANAMTHITTA

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REVN. PETITIONER:2ND RESPONDENT

K.P. VASUDEVAN PILLAI,
RAJALAKSHMI BHAVAN,
NEDUMPURAM,
THIRUVALLA, PATHANAMTHITTA DIST.

BY ADV. SRIT.R.MOHANAKUMAR
SRI.S.ANIL KUMAR (CHERTHALA)

RESPONDENTS: APPLICANT & 1ST RESPONDENT IN CRL. M.P

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1. VIJAYA BANK, NEDUMPURAM BRANCH,
REPRESENTED BY ITS BRANCH MANAGER,
THIRUVALLA, PATHANAMTHITTA DIST.

2. R.V. RADHAKRISHNAN PILLAI,
S/O. VASUDEVAN PILLAI K.P.,
RAJALAKSHMI BHAVAN, NEDUMPURAM,
THIRUVALLA, PATHANAMTHITTA DIST.
(NOT KNOWN FOR THE LAST 3 YEARS)

3. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. C.M. NAZAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4229 OF 2007

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Dated this the 26th day of November, 2007.

ORDER

In this revision filed under Section 397 r/w Section 401 Cr.P.C, the revision petitioner challenges the order dated 20.08.2007 passed by the Chief Judicial Magistrate, Pathanamthitta in C.M.P. No. 4124/2007 appointing an Advocate Commissioner to take possession of 17.35 Ares of land situated in Resurvey No. 107/7 of Nedumpuram village together with the residential building thereon covered by Sale Deed No. 959/1979 of SRO, Thiruvalla stated to be the secured asset offered by the revision petitioner, while availing of a loan from Vijaya Bank and directing the Advocate Commissioner to hand over the said property to the 1st respondent-Vijaya Bank under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the Secutitasiation Act" for short).

2. The contention of the revision petitioner is that the property from which the revision petitioner is sought to be dispossessed is not merely the secured asset of 6.48 Ares alone, but a larger property admeasuring 17.35 Ares and that the revision petitioner is sought to be dispossessed from the above property without even any notice to him issued by the Chief Judicial Magistrate and without affording him an opportunity of being heard.

3. Under Section 14 of the Securitisation Act, the Chief Judicial Magistrate, if approached with a written request by the secured creditor, is obliged to hand over the secured asset to the secured creditor. In that process the Chief Judicial Magistrate is not bound to issue notice to any person or hear any person. If any person is aggrieved by the action of the CJM in handing over possession of the secured asset to the secured creditor, the remedy of such person is under Section 17 of the Act. I am fortified in this view by order dated 10.10.2007 in Crl.R.P.No. 1088/2007 disposed of by this Court. Hence, this revision is dismissed without prejudice to the right of the revision petitioner to work out his remedies under Section 17 of the Securitisation Act.

V. RAMKUMAR, JUDGE.

rv

V. RAMKUMAR, J

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CRL. M.A. NO.12452 OF 2007

IN

UNNUMBERED CRL. R.P. OF 2007

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Date: 26.11.2007

ORDER

This is a petition to condone the delay of 8 days in filing the above revision.

In view of the proposed disposal of the above revision, notice to respondents is dispensed with. Having regard to the averments in the affidavit in support of this petition, the delay of 8 days in filing the above revision is condoned.

Registry to number the revision today itself.

V. RAMKUMAR, JUDGE.

rv